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NEWS RELEASE

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CITY ATTORNEY RE-ISSUES LEGAL OPINION ON AUTHORITY TO INITIATE LITIGATION *SUBJECT WAS PART OF STATE BAR'S ETHICS SYMPOSIUM*

San Diego, CA—The broad scope of the elected San Diego City Attorney's authority to initiate and pursue litigation is detailed in a legal opinion that has been re-issued today by the City Attorney's Office, originally prepared in conjunction with the City Attorney's participation as an invited speaker to the State Bar's symposium on legal ethics.

The legal opinion notes that those who would impose requirements upon a San Diego City Attorney that fall outside the clear language of San Diego City Charter Section 40 would rewrite San Diego's City Charter and cast aside the will of the electorate.

As detailed in the legal opinion, regarding the San Diego City Attorney's authority:

. . . the plain language of City Charter section 40 authorizes the City Attorney as "chief legal adviser," to "prosecute" "all" lawsuits brought in the name of the City. There is no requirement whatsoever that the City Attorney obtain permission to sue in any case. This interpretation is supported not only by the language of Section 40 read in its entirety, but also by the legislative history of the provision, the common law statutory authority afforded to elected public attorneys, state statutes authorizing the City Attorney to sue and long-standing practice. The check of an independent legal advisor is required in the interests of the people. Indeed, it is a constitutional safeguard.

While some government lawyers have a traditional lawyer-client relationship with their government client, the legal opinion explains that other government lawyers serve both as the lawyer and essentially as a trustee, entrusted to make decisions that are normally made by clients.

The City Attorney was one of four panelists to address the issue of the authority and duties of city attorneys at the 12th Annual Statewide Ethics Symposium presented by the State Bar of California's Committee on Professional Responsibility and Conduct on May 3, 2008. The ethics symposium was attended by more than 200 attorneys and other legal professionals at the University of San Francisco School of Law.

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